
**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

**BSJ TRAVEL INC., a Utah corporation including
and on behalf of the present and future
officers and agents of BSJ Travel, Inc.,**

Plaintiff,

vs.

OGDEN CITY AIRPORT et al.,

Defendants.

**ORDER DENYING PLAINTIFF’S MOTION
FOR PRETRIAL CONFERENCE**

Case No. 1:22cv156-DAK

Judge Dale A. Kimball

On February 2, 2023, Plaintiff filed a Motion for a Pre-Trial Conference. In the motion, Plaintiff states that since it filed its Status Update Report on December 1, 2022, “the court has not issued a new briefing schedule or taken any further action.”¹ Plaintiff seeks to move forward with its Motion for Preliminary Injunction and Temporary Restraining Order (the “Emergency Motion”), even though Plaintiff recently agreed that Defendants could have until February 15, 2023, to file a Motion to Dismiss.²

The parties disagree about whether the Emergency Motion is moot. Mr. Durbano now has his airport security badge, which was the relief he sought in the Emergency Motion, but Plaintiff has concerns that the security badge could be revoked in the future and apparently wants an injunction to prevent Defendants from taking the badge away “during the pendency of this and other civil actions without further Court order.”³ Defendants, however, maintain that the Emergency Motion is moot and that Plaintiff is pursuing it because Defendant declines to

¹ ECF No. 22 at 2.

² ECF No. 21 at 2; ECF No. 23 at 3-4.

³ ECF No. 16 at 4.

reimburse Plaintiff's attorney's fees pertaining to the Emergency Motion.⁴ Because the security badge has been returned, it is unclear to the court precisely what injunctive relief is sought by Plaintiff and on what basis. If Defendants revoke or otherwise "shut off" Mr. Durbano's security badge for a reason that is contrary to law, Plaintiff may file another Motion for Emergency Relief.

Another reason the court had not taken further action after Plaintiff's Status Report is that Defendants, in their December 2, 2022, Response to Plaintiff's Status Report, suggested that if the court determined that the Emergency Motion should still be briefed and argued, the Emergency Motion should at least be stayed pending the adjudication of Defendants' soon-to-be filed Motion to Dismiss, which they suggested will be based on similar litigation in this court that has been adjudicated in favor of Defendants.⁵ At that time, Defendants anticipated filing their Motion to Dismiss by December 19, 2022.⁶ Defendants later clarified that after subsequent discussions with Plaintiff's counsel, the parties agreed that the deadline for filing their response was actually January 17, 2023—and not December 19, 2022.⁷

As the January 17, 2023 deadline approached, the parties filed a Stipulated Motion to File Amended Complaint and for Extension of Time for Defendants to Respond.⁸ The Stipulated Motion states that Plaintiff intends to file an Amended Complaint "in the next few weeks," and that "the Parties agree that prudence suggests that Defendants wait until after the amended complaint is filed before filing their motion to dismiss, and have stipulated and hereby move this Court for an extension of time for the Defendants . . . to file their response

⁴ ECF No. 18 at 4.

⁵ ECF No. 18 at 2.

⁶ *Id.* at 3.

⁷ ECF No. 19 at 2.

⁸ ECF No. 20.

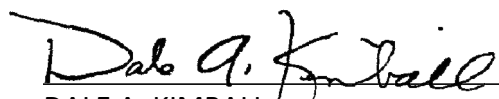
to Plaintiff's Complaint."⁹ The parties agreed that the Amended Complaint would be due on February 1, 2023, and that Defendants would have 30 days to respond. In the event Plaintiff chose not to file an Amended Complaint, Defendants' response to the Original Complaint would then be due by February 15, 2023.¹⁰ The court granted the parties' Stipulated Motion on January 12, 2023.¹¹

Accordingly, the deadline for Plaintiff to file an Amended Complaint was on February 1, 2023, but no Amended Complaint was filed. Therefore, as stipulated to by the parties and as ordered by the court, Defendants' response to Plaintiff's Original Complaint is due by February 15, 2023. If a Motion to Dismiss is filed, it will be briefed according to the motion response times provided in the Local Rules of Practice.¹² The court will then set a date for oral argument in due course.

Accordingly, IT IS HEREBY ORDERED that Plaintiff's Motion for Pre-Trial Conference [ECF No. 22] is DENIED, and Plaintiff's Emergency Motion for Preliminary Injunction and Temporary Restraining Order [ECF No. 2] is DENIED AS MOOT, but Plaintiff may file another such motion if future circumstances warrant such a motion.

DATED this 6th day of February, 2023.

BY THE COURT:


DALE A. KIMBALL
United States District Judge

⁹ ECF No. 20 at 2.

¹⁰ *Id.*

¹¹ ECF No. 21.

¹² See DUCivR 7-1.